

(B) The Administrator finds that such a waiver is in the public interest.

(iv) In addition, the manufacturer shall indicate by means of a label or tag permanently affixed to the engine that the engine is covered by a certificate of conformity issued for the purpose of assuring achievement of emission standards prescribed under section 213 of the Act. This label or tag shall also contain information relating to control of emissions as prescribed under §91.113.

(b) The manufacturer bears all cost obligation a dealer incurs as a result of a requirement imposed by paragraph (a) of this section. The transfer of any such cost obligation from a manufacturer to a dealer through franchise or other agreement is prohibited.

(c) If a manufacturer includes in an advertisement a statement respecting the cost or value of emission control devices or systems, the manufacturer shall set forth in the statement the cost or value attributed to these devices or systems by the Secretary of Labor (through the Bureau of Labor Statistics). The Secretary of Labor, and his or her representatives, has the same access for this purpose to the books, documents, papers, and records of a manufacturer as the Comptroller General has to those of a recipient of assistance for purposes of section 311 of the Act.

(d) Any inspection of a engine for purposes of paragraph (a)(1) of this section, after its sale to the ultimate purchaser, is to be made only if the owner of such vehicle or engine voluntarily permits such inspection to be made, except as may be provided by any state or local inspection program.

Subpart M—Emission Warranty and Maintenance Instructions

§91.1201 Applicability.

The requirements of this subpart M are applicable to all engines subject to the provisions of subpart A of this part 91.

§91.1202 Definitions.

The definitions of subpart A of this part apply to this subpart.

§91.1203 Emission warranty, warranty period.

(a) Warranties imposed by this subpart shall be phased in according to the following schedule.

(1) For model years 1998–2000, and for MY 1997 engine families certified pursuant to §91.205, all emission related components shall be warranted for a period of one year of engine use.

(2) For model years 2001–2003:

(i) Emission related components shall be warranted for a period of one year of engine use.

(ii) Specified major emission control components shall be warranted for a period of three years or 200 hours of engine use, whichever occurs first.

(3) For model years 2004 and beyond:

(i) Emission-related components shall be warranted for a period of two years or 200 hours of engine use, whichever occurs first.

(ii) Specified major emission control components shall be warranted for a period of three years or 200 hours of engine use, whichever occurs first.

(b) The manufacturer of each new marine SI engine must warrant to the ultimate purchaser and each subsequent purchaser, that the engine is designed, built, and equipped so as to conform at the time of sale with applicable regulations under section 213 of the Act, and the engine is free from defects in materials and workmanship which cause such engine to fail to conform with applicable regulations for its warranty period.

(c) In the case of a marine SI engine part, the manufacturer or rebuilder of the part may certify according to §85.2112 of this chapter that use of the part will not result in a failure of the engine to comply with emission standards promulgated in this part.

(d) For the purposes of this section, the owner of any marine SI engine warranted under this part is responsible for the proper maintenance of the engine as stated in the manufacturer's written instructions. Proper maintenance generally includes replacement and service, at the owner's expense at a service establishment or facility of the owner's choosing, such items as spark plugs, points, condensers, and any other part, item, or device related to emission control (but not designed for

emission control) under the terms of the last sentence of section 207(a)(3) of the Act, unless such part, item, or device is covered by any warranty not mandated by this Act.

§91.1204 Furnishing of maintenance and use instructions to ultimate purchaser.

(a) The manufacturer must furnish or cause to be furnished to the ultimate purchaser of each new marine SI engine written instructions for the maintenance and use needed to assure proper functioning of the emission control system.

(b) The manufacturer must provide in boldface type on the first page of the written maintenance instructions notice that maintenance, replacement, or repair of the emission control devices and systems may be performed by any marine SI engine repair establishment or individual.

(c) The instructions under paragraph (a) of this section will not include any condition on the ultimate purchaser's using, in connection with such engine, any component or service (other than a component or service provided without charge under the terms of the purchase agreement) which is identified by brand, trade, or corporate name. Such instructions also will not directly or indirectly distinguish between service performed by the franchised dealers of such manufacturer or any other service establishments with which such manufacturer has a commercial relationship and service performed by independent marine engine repair facilities which such manufacturer has no commercial relationship.

(d) The prohibition of paragraph (c) of this section may be waived by the Administrator if:

(1) The manufacturer satisfies the Administrator that the engine will function properly only if the component or service so identified is used in connection with such engine, and

(2) The Administrator finds that such a waiver is in the public interest.

Subpart N—In-Use Credit Program for New Marine Engines

§91.1301 Applicability.

Marine SI engines subject to the provisions of subpart A of this part 91 are eligible to participate in the in-use credit program described in this subpart.

§91.1302 Definitions.

The definitions in subpart A of this part apply to this subpart. The following definitions shall also apply to this subpart:

Averaging means the exchange of marine engine in-use emission credits among engine families within a given manufacturer's product line.

Banking means the retention of marine engine in-use emission credits by the manufacturer generating the emission credits for use in future model year averaging or trading as permitted by these regulations.

Carry-over engine family means an engine family which undergoes certification using carryover test data from previous model years. See §91.118(c).

Emission credits or in-use credits represent the amount of emission reduction or exceedance, for each regulated pollutant, by a marine engine family below or above, respectively, the applicable certification family emission limit (FEL) to which the engine family is certified. Emission reductions below the FEL are considered "positive credits," while emission exceedances above the FEL are considered "negative or required credits."

Banked credits refer to positive emission credits based on actual applicable production/sales volume as contained in the end of model year in-use testing reports submitted to EPA. Some or all of these banked credits may be revoked if EPA review of the end of model year in-use testing reports or any subsequent audit action(s) uncovers problems or errors.

Trading means the exchange of marine SI engine in-use emission credits between manufacturers and/or brokers.

Compliance level for an engine family is determined by averaging the in-use test results from each engine.